

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

ETW DEVELOPMENT COMPANY, )  
LLC, )

Plaintiff, )

v. )

ACE FIRE UNDERWRITERS )  
INSURANCE COMPANY )

Defendant. )

CIVIL ACTION FILE

NO. \_\_\_\_\_

(REMOVED FROM THE HORRY  
COUNTY, SOUTH CAROLINA, COURT  
OF COMMON PLEAS, CIVIL ACTION  
NO. 2011-CP-26-05657)

**NOTICE OF REMOVAL**

COMES NOW ACE Fire Underwriters Insurance Company (hereinafter "ACE"),  
defendant in the above-styled matter, and within the time prescribed by law, files this  
Notice of Removal and respectfully shows the Court as follows:

1.

Plaintiff in the above-styled matter has filed a complaint against defendant ACE  
in the Horry County, South Carolina, Court of Common Pleas, which county is within  
the District of South Carolina and the Florence Division of this Court. *See* 28 U.S.C.A.  
§ 90(a)(3). Said lawsuit is styled as above and is numbered as Civil Action File No.  
2011-CP-26-05657.

2.

Plaintiff's complaint alleges it is a named insured on a policy of insurance issued  
by ACE to Bovis Lend Lease Holding, Inc. (Plaintiff's complaint, ¶ 6). Based upon

information and belief, and from a telephone conversation with counsel for plaintiff, the damages claimed in the lawsuit exceed the sum or value of \$700,000.00, exclusive of interest and costs.

3.

Plaintiff is a South Carolina limited liability company with its office in South Carolina at 625 Sea Mountain Highway, North Myrtle Beach, Horry County, South Carolina 29582.

4.

Defendant ACE is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, with its principal place of business located in Philadelphia, Pennsylvania. At no time has ACE been organized and existing under the laws of the State of South Carolina, nor at any time has its principal place of business been located in the State of South Carolina. Accordingly, there is complete diversity of citizenship between plaintiff and defendant ACE.

5.

The amount in controversy in this lawsuit exceeds the sum of \$75,000.00, exclusive of interest and costs, and there is complete diversity of citizenship between plaintiff and defendant ACE. Accordingly, this is a case which is subject to the original jurisdiction of this Court under 28 U.S.C. § 1332, and this case may be removed to this Court pursuant to the provisions of 28 U.S.C. §§ 1441 and 1446.

6.

The aforesaid lawsuit was filed in the Horry County, South Carolina, Court of Common Pleas on June 6, 2011, and defendant ACE was served through the South Carolina Department of Insurance by registered letter dated December 28, 2011. Therefore, this Notice of Removal is being filed within thirty (30) days after the date that defendant first received service of plaintiff's initial pleading setting forth plaintiff's claims for relief upon which this civil action is based.

7.

Attached hereto as Exhibit "A" are true and correct copies of plaintiff's complaint and all summons, process and other pleadings served upon defendant ACE in this case, as required by 28 U.S.C. § 1446(a).

8.

Defendant ACE has given written notice of the filing of this notice of removal to plaintiff by mailing a copy of this notice to its attorneys of record Everett J. Mercer, Mercer Law Firm, 324-B North Main Street, P.O. Box 1347, Sumter, South Carolina 29151.

9.

In compliance with 28 U.S.C. § 1446(a), defendant ACE has given written notice of the filing of this notice of removal to Melanie Huggins-Ward, Clerk of Court, Horry County Court of Common Pleas, Court & Justice Center, 1301 Second Avenue,

Conway, South Carolina 29526, a copy of which is attached to this notice of removal as Exhibit "B. "

WHEREFORE, defendant ACE Fire Underwriters Insurance Company respectfully prays that the above-captioned lawsuit be removed to the United States District Court for the District of South Carolina, Florence Division.

Respectfully submitted, this 18<sup>th</sup> day of January, 2012.



J. TIMOTHY WOOTEN (Fed. I.D. 9243)

WAYNE D. TAYLOR

(Georgia State Bar No. 701275 -to be admitted  
pro hac vice)

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**CERTIFICATE OF SERVICE**

This is to certify that I have this day served a true and correct copy of the within  
and foregoing **NOTICE OF REMOVAL** by depositing same in the United States Mail  
with correct postage affixed thereto, addressed as follows:

Everett J. Mercer  
Mercer Law Firm  
324-B North Main Street  
P.O. Box 1347  
Sumter, South Carolina 29151

This 18<sup>th</sup> day of January, 2012.



J. TIMOTHY WOOTEN

#316537